



# COLORADO

## Department of Higher Education

Priority: R-5  
Fort Lewis Native American Tuition Waiver  
FY 2015-16 Change Request

### ***Cost and FTE***

- The Department requests an increase of \$1,169,115 General Fund to fund the Fort Lewis College Native American Tuition Waiver in FY 2015-16. This increase would bring the total appropriation for the waiver to \$16,011,096 General Fund.

### ***Current Program***

- Colorado is required via Federal treaty and state law to provide full tuition assistance to any qualified Native American student who attends Fort Lewis College.

### ***Problem or Opportunity***

- The Federal treaty with Colorado applies to all Native American students throughout the United States. Therefore, the appropriation must cover both resident and non-resident tuition for participating students. Current funding would fall short of the program cost by \$1,169,115 General Fund in FY 2015-16.

### ***Consequences of Problem***

- If the funding for the Fort Lewis Native American Tuition Waiver is not increased, Colorado will be out of compliance with Section 23-52-105 (1) (b), C.R.S.

### ***Proposed Solution***

- The Department requests that the Fort Lewis College Native American Tuition Waiver funding be increased to cover Native American student enrollment and tuition costs.



# COLORADO

## Department of Higher Education

John W. Hickenlooper  
Governor

Lt. Governor Joseph A. Garcia  
Executive Director

FY 2015-16 Funding Request | November 1, 2014

**Department Priority: R-5**

**Request Detail: Fort Lewis College Native American Tuition Waiver**

Summary of Incremental Funding Change for FY 2015-16	Total Funds	General Fund
Fort Lewis College Native American Tuition Waiver	\$1,169,115	\$1,169,115

The Department of Higher Education requests an increase of \$1,169,115 General Fund to fund the Ft. Lewis College Native American Tuition Waiver in FY 2015-16. This increase would bring the total budget for this program to \$16,011,096 General Fund. This funding increase is necessary to fully comply with state statute and the Federal treaty.

### **Problem or Opportunity:**

An increase in the funding for the Ft. Lewis College Native American Tuition Waiver is necessary to ensure that the State is in compliance with state statutory and federal requirements.

### **Statutory Requirements**

Section 23-52-105 (1) (b), C.R.S. states, “*The general assembly shall appropriate from the state general fund one hundred percent of the money required for tuition for such qualified Indian pupils*” at Fort Lewis College. Fort Lewis College waives tuition for these students upfront and receives reimbursement for these students from the State in the subsequent fiscal year. Thus, the funding for this program is in arrears, such that this FY 2015-16 request covers the prior year’s actual waivers granted in FY 2014-15.

### **Background**

In 1910, the United States Commissioner of Indian Affairs recommended that the property encompassing Ft. Lewis College (which had been previously declared a federally owned Indian school) be transferred to Colorado if the state were willing to accept certain conditions. The Sixty-first Congress passed an Act which granted the State of Colorado the Ft. Lewis property provided that: “...said lands and buildings shall be held and maintained by the State of Colorado as an institution of learning, and that Indian pupils shall at all times be admitted to such school free of charge for tuition and on terms of equality with white pupils...”

In 1911, Colorado Governor John P. Shafroth signed the Executive Order which accepted Ft. Lewis under the conditions of the 1910 Act of Congress. By the 1960s, increasing numbers of Native American students were attending the school and the associated cost prompted the Colorado Legislature in 1971 to enact legislation that limited full tuition coverage to only Native American pupils who qualified for in-state

tuition in Colorado. This legislation was challenged by the Federal government in 1972 as a breach of the contract created by the 1910 Acts and 1911 Executive Order. Chief Judge Alfred A. Arraj ruled in favor of the Federal Government that the Act and the acceptance of its terms by Colorado resulted in a contract that required Colorado to admit any Native American student to Ft. Lewis College free of charge for tuition. This decision was further upheld by the United States Court of Appeals, Tenth Circuit. It is this legal precedent that directs State policy and budgetary action regarding the Ft. Lewis Native American Tuition Waiver currently.

The FY 2014-15 estimates for the program are higher due to increases in student enrollment and resident tuition. The combination of these factors requires an addition \$1,169,115 General Fund. If this request is not approved, the State will be out of compliance with Colorado statute and the federal treaty.

#### ***Proposed Solution:***

The increase will fund the statutory obligations for paying student tuition associated with Native American student enrollments and tuition costs at Fort Lewis College.

#### ***Anticipated Outcomes:***

The mission of the Colorado Department of Higher Education is to improve the quality of, ensure the affordability of, and promote access to postsecondary education for the people of Colorado. In fulfilling the terms of the Ft. Lewis Native American tuition waiver, the Department not only ensures compliance with statute but also promotes access to postsecondary education for a significantly underserved minority population.

#### ***Assumptions and Calculations:***

Please see Attachment A for the detailed calculations used to arrive at this request. The following assumptions were used for these calculations:

- The FY 2015-16 budget request (\$16,011,096 total, an increase of \$1,169,115 General Fund) is based on the FY 2014-15 estimate of actual waivers (as all funding is made in arrears, based on the prior year).
- The FY 2014-15 appropriation was based on FY 2013-14 estimates; however, this calculated amount is recalibrated in this request.
- The request assumes that resident and non-resident student will represent the same percentage of total enrollments as actual FY 2013-14 enrollments.

The request accounts for a tuition increase in FY 2014-15 of 6.0% for resident students (0% for non-resident students) and enrollment increases of 1% and 4%, respectively, for resident and non-resident students. An estimated 94.4 percent of the students served in the Fort Lewis Native American Tuition Waiver are non-resident students; 5.6 percent of the students are residents. Thus the increase reflects the combined factors of changes to enrollment, resident tuition changes, and the change in the ratio of non-resident students in the program.